

From: Gary Schulte
To: Microsoft ATR
Date: 1/23/02 11:42am
Subject: Microsoft Settlement

There are a number of problems others have discovered and brought to my attention about the Proposed Final Judgement in the Microsoft Antitrust suit.

I expect you, as officials representing the best interest of the citizens of the United States, to reconsider said judgement in light of these points:

a.. The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

a.. The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

b.. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

c.. The PFJ allows users to replace Microsoft Java with a competitor's product-- but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

d.. The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box -- operating systems that all use the Win32 API and are advertized as being "Windows Powered".

e.. The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

f.. The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware -- but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

g.. The PFJ requires Microsoft to release API documentation -- but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

h.. The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

i.. The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

b.. The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

a.. Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows.

b.. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

c.. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system-- even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

Thank you,

Gary Schulte

